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10-4-2010

In Re: Keon Garnes

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 10-3566

IN RE KEON GARNES
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to D.N.J. Civ. No. 10-cv-00551)
District Judge: Honorable Stanley R. Chesler

Submitted Pursuant to Rule 21, Fed. R. App. P.
September 23, 2010
Before: FUENTES, JORDAN AND HARDIMAN, Circuit Judges

(Opinion filed: October 4, 2010)

OPINION

PER CURIAM

On September 2, 2010, Keon Garnes filed this pro se mandamus petition, seeking an order to compel the District Court to rule on a motion that he filed pursuant to 28 U.S.C. § 2255 and a motion for a default judgment in the same case. For the reasons that follow, we conclude that mandamus relief is not warranted because Garnes' petition is moot.

Garnes, an inmate at FCI Schuylkill, pleaded guilty to one count of possessing a firearm after having been convicted of a felony. 18 U.S.C. § 922(g). He was later sentenced to 120 months imprisonment. In February 2010, Garnes filed a § 2255 petition to vacate, set aside, or correct his sentence. He later moved for a default judgment on the ground that the Government did not respond to the District Court's order to answer his petition.¹ The District Court denied Garnes § 2255 relief and declined to issue a certificate of appealability by order entered August 20, 2010.

On September 2, 2010, Garnes moved for mandamus relief, asking that the District Court be compelled to rule on his § 2255 motion. The District Court has already ruled on his motion. Accordingly, we will deny Garnes' mandamus petition as moot.

¹ In fact, the Government did file a response within the time given by the District Court.